

Montana Water Court  
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IN THE WATER COURT OF THE STATE OF MONTANA  
LOWER MISSOURI DIVISION  
JUDITH RIVER BASIN (41S)  
PRELIMINARY DECREE

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CLAIMANT: C & T Ranch Co.

CASE 41S-0744 -R-2024  
41S 115289-00  
41S 115295-00

**NOTICE OF FILING OF MASTER’S REPORT**

This Master’s Report was filed with the Montana Water Court on the above-stamped date. Please review this report carefully.

You may file a written objection to this Master’s Report within **10 days** of the stamped date if you disagree or find errors with the Master’s findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master’s Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master’s Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master’s Report.

**MASTER'S REPORT**  
**FINDINGS OF FACT**

1. C & T Ranch Co. (the Claimant) is the record owner of claims 41S 115289-00 and 41S 115295-00.

2. Claims 41S 115289-00 and 41S 115295-00 were decreed with DNRC issue remarks:

**Claim 41S 115289-00:**

- THE MAXIMUM NUMBER OF ACRES CLAIMED ON THE ORIGINAL STATEMENT OF CLAIM IS 95.00 ACRES. THE DNRC'S RE-EXAMINATION WAS OF THESE ORIGINAL CLAIMED ACRES.
- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-179-40, DATED 09/17/1979, APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION ON ANTELOPE CREEK WITH A PRIORITY DATE PREDATING CASE NO 1447, JUDITH BASIN COUNTY. IF NO OBJECTIONS ARE FILED TO PRIORITY DATE OR TYPE OF HISTORICAL RIGHT, THESE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS REMARK WILL BE REMOVED.

**Claim 41S 115295-00:**

- EXISTENCE OF THE CLAIMED RESERVOIR CANNOT BE CONFIRMED WITH AVAILABLE DATA.

3. The Claimant was ordered to meet with a DNRC employee to address the unresolved issue remarks. (Doc.<sup>1</sup>1.00).

4. DNRC Water Resource Specialist Carli Bluhm filed a Memorandum stating she met with the Claimant. (Doc.<sup>2</sup> 3.00). It is unclear from Ms. Bluhm's Memorandum who contacted the DNRC on behalf of the Claimant. Ms. Bluhm indicated she reviewed aerial photos to prepare the Memorandum. Proposed abstracts and a map were attached to the Memorandum.

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<sup>1</sup> "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

<sup>2</sup> "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

5. **Claim 41S 115289-00:** Ms. Bluhm explained that she confirmed 10.00 acres as historically irrigated at the claimed place of use. Ms. Bluhm recommended the place of use and flow rate be reduced:

Flow Rate: 170.00 GPM ~~2-80-CFS~~

Maximum Acres: 10.00 ~~74.00~~

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	10.00		W2W2NE	2	12N	13E	JUDITH-BASIN
2	<span style="border: 1px solid red; padding: 2px;">10.00</span> <del>34.00</del>		NW	2	12N	13E	JUDITH BASIN
3	18.00		N2SW	2	12N	13E	JUDITH-BASIN
4	12.00		NESE	3	12N	13E	JUDITH-BASIN
<b>Total:</b>	<del>74.00</del> <span style="border: 1px solid red; padding: 2px;">10.00</span>						

6. **Claim 41S 115295-00:** Ms. Bluhm confirmed the location of the dam at the claimed location and recommended the issue remark be removed.

7. An Order was issued to determine if Claimant C & T Ranch Co. agreed or disagreed with the recommendations made by Ms. Bluhm. (Doc. 4.00). The Order indicated that if nothing were filed by the deadline, this Water Master would conclude the Claimant agreed with the recommended modifications to claim 41S 115289-00. The following language was included in the Order:

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

On October 21, 2024, Tom Mickelson requested additional time and the deadline was extended to January 20, 2025. (Doc. 5.00). Nothing was filed.

#### PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks decreed on a claim. Section 85-2-248, MCA.
2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right

claims. Rule 19, W.R.Adj.R., *Nelson v. Brooks*, 2014 MT 120; 375 Mont.86, 95; 329 P.3d 558, 564.

3. Pursuant to Rule 22, W.R.Adj.R., if a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing or fails to comply with an order issued by the Water Court, the Water Court may issue such orders of sanction with regard thereto as are just.

4. The priority date issue remark decreed on claim 41S 115289-00 has provided notice and can be removed.

#### RECOMMENDATIONS

1. Claim 41S 115289-00 should be modified as shown in Finding of Fact 5 and the issue remarks should be removed.

2. The issue remark should be removed from claim 41S 115295-00 with no changes to the elements of the claim.

Abstracts are attached for review.

#### **ELECTRONICALLY SIGNED AND DATED BELOW.**

#### **Service via USPS Mail:**

C & T Ranch Co.  
9007 New Liberty Rd  
Buffalo, MT 59418-8119

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
JUDITH RIVER  
BASIN 41S**

**Water Right Number:** 41S 115289-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** C & T RANCH CO  
9007 NEW LIBERTY RD  
BUFFALO, MT 59418-8119

**Priority Date:** JUNE 30, 1894

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 170.00 GPM

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 10.00

**Source Name:** ANTELOPE CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SENESE	3	12N	13E	JUDITH BASIN

**Period of Diversion:** APRIL 15 TO OCTOBER 15

**Diversion Means:** HEADGATE

**Period of Use:** APRIL 15 TO OCTOBER 15

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	10.00		NW	2	12N	13E	JUDITH BASIN
<b>Total:</b>	10.00						

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
JUDITH RIVER  
BASIN 41S**

**Water Right Number:** 41S 115295-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** C & T RANCH CO  
9007 NEW LIBERTY RD  
BUFFALO, MT 59418-8119

**Priority Date:** JULY 15, 1894

**Type of Historical Right:** FILED

**Purpose (Use):** STOCK

**\*Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**\*Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** UNNAMED TRIBUTARY OF BIG COULEE

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESWSW	1	12N	13E	JUDITH BASIN

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESWSW	1	12N	13E	JUDITH BASIN

**Diversion to Reservoir:** DIVERSION # 1

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NESWSW	1	12N	13E	JUDITH BASIN